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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,064	11/30/1999	ROBERT NORMAN HURST, JR.	RCA-89.651	8555

7590

06/07/2004

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EXAMINER
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HSIA, SHERRIE Y

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/451,064	HURST, JR., ROBERT NORMAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sherrie Hsia	2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-14 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 3 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2</u> .                                                                   | 6) <input type="checkbox"/> Other: ____.                                    |

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***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “user channel viewing history characteristics” as claimed in claims 8, 11 and 19 and “viewing history characteristics ...use data” as claimed in claims 9, 12 and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8, 9, 11, 12, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

“user channel viewing history characteristics” as, claimed in claims 8, 11 and 19 and “said viewing history characteristics ...use data” as claimed in claims 9, 12 and 20 are not

described in the specification. It is unclear what the viewing history characteristics are and how these characteristics are being determined. Therefore, applicant must clarify these matters.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 2, "may be" is indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired. In the instant case, limitation carried out by the term "may be" will not be considered as a positive claimed limitation.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-6, 13, 14, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Perkins (6188729).

As to claims 1 and 13, Perkins discloses the claimed subject matter, the claimed plurality of buffers is met by the buffers 60, 62, 64 (Fig. 2, column 4 lines 1-24), the claimed processor for initiating switching to decode a program is met by the control computer 52 (Fig. 2, column 3 line 67-column 4 line 24) and the claimed decoder for decoding encoded video data received from one of the plurality of buffers is met by the decoder 84 (Fig. 2, column 4 lines 1-24).

As to claims 2 and 14, the claimed feature is disclosed by Perkins (column 4 line 58-column 7 line 11).

As to claim 4, the claimed feature is disclosed by Perkins (Fig. 2).

As to claims 5 and 16, the claimed plurality tuners are inherently included in Perkins since it shows the receivers (Fig. 1, column 1 line 48-column 2 line 10).

As to claims 6 and 17, the claimed decoded data in a different image sequence is inherently included in Perkins (Fig. 2).

5. Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Crosby (5933192).

As to claim 21, Crosby discloses the claimed subject matter, the claimed collecting information for use in predicting a next channel selection, the information comprising at least one of predetermined user channel and program preference criteria, **predetermined user channel navigation patterns** and user data entry device sensory data is met by the channel-down command and channel-up command and the microcontroller 70 (fig. 1, column 4 lines 30-64), the claimed processing the collected information to identify a likely channel to be selected by a user is met by the microcontroller 70 (column 4 line 31-column 7 line 50) and the claimed

adopting the identified channel as the predicted next channel is met by the microcontroller 70 (column 4 line 31-column 7 line 50).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9, 10-12 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins (6188729) in view of Crosby (5933192).

As to claims 7, 10 and 18, Perkins discloses the claimed features except for the predictive processor predicting the next channel. Crosby shows a microcontroller predicts the next channel the user will select. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Perkins by utilizing a processor to predict the next channel as taught by Crosby in order to quickly change the channel.

As to claims 8, 11 and 19, the claimed subject matter is met by is met by the channel-down command and channel-up command and the microcontroller 70 of Crosby (fig. 1, column 4 lines 30-64).

As to claims 9, 12 and 20, the claimed subject matter is disclosed by Crosby (column 5 lines 13-54).

***Allowable Subject Matter***

7. Claims 3 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reitmeier (6118498) discloses a channel scanning and channel change latency reduction in an ATSC television receiver.

Shendar (6519011) shows a digital television with more than one tuner.

Kim (6334217) shows a channel selecting method and apparatus having first and second tuners.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherrie Hsia whose telephone number is (703) 305-4738.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9306 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



**Sherrie Hsia**  
**Primary Examiner**  
**Art Unit 2614**

SH  
June 1, 2004